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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/870,152	05/30/2001	Masaaki Yokoyama	262/054	8878

22249 7590 08/20/2002

LYON & LYON LLP
633 WEST FIFTH STREET
SUITE 4700
LOS ANGELES, CA 90071

EXAMINER

VO, HAI

ART UNIT	PAPER NUMBER
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1771

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DATE MAILED: 08/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/870,152

Applicant(s)

YOKOYAMA ET AL.

Examiner

Hai Vo

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1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Objections

1. Claims 1-4 are objected to because of the following informalities: claim 1, line 4, the term "wherein" should be added before "the surface". Claim 3, line 4, the phrase "is a polyethylene resin that" should be deleted.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shioya et al (US 5,928,776) in view of JP-10-077359. Shioya teaches a composite material comprising a surface layer of a polypropylene resin **1a**, an intermediate cushioning layer of a polypropylene foamed sheet **1b** and a backing layer of an expanded polypropylene resin particle **4** (figure 3). Shioya fails to teach or suggest a composite material having a coating layer of polyethylene film covering the backing layer of an expanded polypropylene resin particle. Shioya is silent as to the compressive hardness of the cushioning layer. However, the surface layer of Shioya meets all the limitations of structure and chemistry as set forth by the claims, it is the examiner's position that the compressive hardness would

be inherently present in the cushioning layer of Shioya. JP'359 discloses the foaming resin particle having a composite structure which consists of a core layer of polypropylene resin expanded beads and a skin layer of polyethylene based polymer (abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the backing layer of Shioya having a coating layer of polyethylene attached thereto motivated by the desire to obtain a composite material having high mechanical strength and thermal resistance.

With regard to claim 2, none of the cited references suggest or disclose the particle size of the polypropylene. However, such a variable would have been recognized by one skilled in the art to impart the adhesion between the cushioning layer and the backing layer. As such, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the claimed particle size of the thermoplastic resin expanded particle, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

With regard to claims 3 and 4, JP'359 discloses the coating polyethylene layer substantially exhibiting no melting point (claim 7) or the melting point of the coating layer being 15°C or more lower than that of the polypropylene resin expanded particle (claim 3, [0012]). It would have

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been obvious to one having ordinary skill in the art at the time the invention was made to employ the coating layer of polyethylene having such a melting point motivated by the desire to prevent the coating layer from foaming.

Conclusion


4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Vo whose telephone number is (703) 605-4426. The examiner can normally be reached on Monday to Friday, 8:30 to 5:00 (EAST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

HV
August 6, 2002


TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700